

**Senate Commerce Committee Amendment**

**AMENDMENT NO.** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**AMEND Senate Bill No. 2307\***

**House Bill No. 2454**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

by deleting in its entirety all the language following the caption, and by substituting instead the following language:

WHEREAS, it is in the best interests of the citizens of this state that commercial activities proceed in an orderly and efficient manner; and

WHEREAS, it is especially important that lien rights be firmly established and clearly understood by all parties involved; and

WHEREAS, in enacting Chapter 854 of the Public Acts of 1990, the general assembly attempted to establish a fair method by which notice of nonpayment could be given to timely notify the owner and general contractor that work, services or materials furnished to construction, building and similar type projects remained unpaid prior to the end of the project; and

WHEREAS, it was the intent of the general assembly in this act to require the notice of nonpayment to be filed within sixty days of the last day of the month when the work, services or materials provided by a subcontractor, laborer or materialman were completed and

WHEREAS, Section 66-11-145(a)(3) substantiates this intent by requiring that the notice shall include "A statement of the last date the claimant performed work and/or provided services or materials in connection with the improvements"; and

WHEREAS, this was the method utilized by the commercial building trade from July 1, 1990, until the recent Court of Appeals, Eastern Section decision, in the case styled: CMT, Inc. v. West End Church of Christ, filed February 15, 1996 which held that

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the notice must be filed within sixty days of the end of each month within which services or supplies were provided; and

WHEREAS, the filing of this timely notice is a condition for perfecting a lien under §66-11-115 and in large projects could be years prior to the completion of a project, and as such is, therefore, not duplicative and meaningless as declared in the West End Church of Christ decision; and

WHEREAS, the result reached by the Court of Appeals, which was never the intent of the general assembly, has placed an increased and burdensome hardship on the commercial building trade industry and will make it especially difficult for small businesses to perfect a lien; and

WHEREAS, it is necessary that this general assembly clarify its intent and enact legislation to return the law to its intended status prior to the West End Church of Christ decision; now, therefore,

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE;**

SECTION 1. Tennessee Code Annotated, Section 66-11-145(a), is amended by deleting the language “the last day of the month within which work, services or materials were provided,” and by substituting instead the language “the last day of the last month within which the subcontractor, laborer or materialman performed work and/or provided services or materials”.

SECTION 2. Tennessee Code Annotated, Section 66-11-145, is further amended by adding the following language as a new, appropriately designated subsection:

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( ) The intent of the legislature is and has always been that the notice of nonpayment is to be filed after the subcontractor, laborer or materialman completes the work or provides services or materials which are the subject of the contract entered into with respect to buildings, fixtures, machinery or improvements as provided in subsection (a) and that the filing is to be made within sixty (60) days of the last month within which such work was performed or services or materials were provided to establish and preserve the lien rights authorized by §66-11-115.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it; the intent of the general assembly being that this act be remedial in effect and applicable to contracts entered into on or after July 1, 1990.